

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

CARLOS ANGEL RODRIGUEZ

§
§
§
§

V.

C.A. NO. C-05-426

DOUGLAS DRETK

OPINION AND ORDER OF TRANSFER

This is a habeas action filed by a state prisoner incarcerated at TDCJ-CID's Lynaugh Unit in Fort Stockton, Pecos County, Texas (D.E. 1). Petitioner challenges disciplinary action taken by TDCJ officials while he was incarcerated at TDCJ-CID's McConnell Unit in Beeville, Texas (*Id.*). He was convicted and sentenced in the 320th Judicial District Court of Potter County, Texas (*Id.*).

A habeas action may be filed either in the district where petitioner is in custody or in the district in which petitioner was convicted. 28 U.S.C. § 2241(d); Wadsworth v. Johnson, 235 F.3d 959 (5th Cir. 2000). Petitioner's place of incarceration is located in the Western District of Texas, Pecos Division, 28 U.S.C. § 124(d)(6), and he was convicted by a court located in the Amarillo Division of the Northern District of Texas. 28 U.S.C. § 124(a)(5). The Southern District of Texas does not have jurisdiction to hear the petition, even though disciplinary action was taken in this district. Wadsworth, 235 F. 3d at 962.

In the interest of justice, a district court may transfer any civil action to a district or division where it might have been brought. 28 U.S.C. § 1406(a). The interests of justice compel a transfer in this case. Accordingly, it is ordered that the Clerk of the Court TRANSFER this action to the United States District Court for the Western District of Texas, Pecos Division.

Petitioner's application to proceed *in forma pauperis* (D.E. 2) is denied without prejudice subject to renewal when his petition is reassigned to a District Judge in the Pecos Division.

ORDERED this 25th day of August, 2005.



B. JANICE ELLINGTON
UNITED STATES MAGISTRATE JUDGE